

AMENDED IN SENATE JUNE 16, 2009

AMENDED IN ASSEMBLY MAY 5, 2009

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 811

Introduced by Assembly Member John A. Perez

February 26, 2009

An act to amend Sections 1789.30 and 1789.35 of the Civil Code, and to amend Sections 13004.1 and 14610.1 of the Vehicle Code, relating to identification documents.

LEGISLATIVE COUNSEL'S DIGEST

AB 811, as amended, John A. Perez. Identification documents.

Existing law prohibits a check casher from charging a fee of more than \$10 to set up an initial account and issue an optional identification card for providing check cashing services.

This bill would prohibit a check casher from selling any identification card other than that optional check cashing identification card. The bill would also prohibit a check casher from requiring a customer to purchase a check cashing identification card to access services or from misrepresenting the use of that identification card. The bill would make related changes.

Existing law prohibits any person from manufacturing or selling an identification document of a size and form substantially similar to the identification cards issued by the Department of Motor Vehicles. Existing law provides that a violation of that provision is a misdemeanor punishable by a fine of \$1,000, which shall not be suspended, and the person is required to perform not less than 24 hours of community

service during hours when the person is not employed and is not attending school.

This bill would increase the punishment for that crime to a fine of \$1,000, 24 hours of community service, and, in the court's discretion, imprisonment in a county jail for not more than one year. The bill would provide that no part of the fine or community service shall be suspended or waived. Because this bill would change the penalty for an existing crime, it would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1789.30 of the Civil Code is amended
2 to read:

3 1789.30. (a) (1) Every check casher, as applicable to the
4 services provided, shall post a complete, detailed, and unambiguous
5 schedule of all fees for (A) cashing checks, drafts, money orders,
6 or other commercial paper serving the same purpose, (B) the sale
7 or issuance of money orders, and (C) the initial issuance of any
8 identification card for accessing check cashing services as
9 described in subdivision (b) of Section 1789.35. Each check casher
10 shall also post a list of valid identification which is acceptable in
11 lieu of identification provided by the check casher. The information
12 required by this section shall be clear, legible, and in letters not
13 less than one-half inch in height. The information shall be posted
14 in a conspicuous location in the unobstructed view of the public
15 within the check casher's premises.

16 (2) A check casher may be required to file a return required by
17 Section 18631.7 of the Revenue and Taxation Code.

18 (b) (1) Except as provided in paragraph (2), this section shall
19 become operative December 31, 2004.

20 (2) (A) Except as provided in subparagraph (B), paragraph (2)
21 of subdivision (a) shall apply to checks cashed on or after January
22 1, 2006.

(B) The amendments to this section made by the act adding this subparagraph shall become operative on January 1, 2008.

SEC. 2. Section 1789.35 of the Civil Code is amended to read:

1789.35. (a) A check casher shall not charge a fee for cashing a payroll check or government check in excess of 3 percent if identification is provided by the customer, or 3.5 percent without the provision of identification, of the face amount of the check, or three dollars (\$3), whichever is greater. Identification, for purposes of this section, is limited to a California driver's license, a California identification card, or a valid United States military identification card. A check casher shall not sell any identification card except as provided in subdivision (b).

(b) A check casher may charge a fee of no more than ten dollars (\$10) to set up an initial account and issue an optional identification card for providing check cashing services. ~~A check casher shall not require additional fees for issuing an optional identification card, but~~ a replacement optional identification card may be issued at a cost not to exceed five dollars (\$5). A check casher shall not require a customer to purchase a check cashing identification card to access services, and it shall not misrepresent the use of that identification card.

(c) A check casher shall provide a receipt to the customer for each transaction.

(d) A check casher may charge a fee for cashing a personal check, as posted pursuant to Section 1789.30, for immediate deposit in an amount not to exceed 12 percent of the face value of the check.

(e) Any person who violates any provision of this section shall be liable for a civil penalty not to exceed two thousand dollars (\$2,000) for each violation, which shall be assessed and recovered in a civil action brought in the name of the people of the State of California by the Attorney General in any court of competent jurisdiction. Any action brought pursuant to this subdivision shall be commenced within four years of the date on which the act or transaction upon which the action is based occurred.

(f) A willful violation of this section is a misdemeanor.

(g) Any person who is injured by any violation of this section may bring an action for the recovery of damages, an equity proceeding to restrain and enjoin those violations, or both. The amount awarded may be up to three times the damages actually

1 incurred, but in no event less than the amount paid by the aggrieved
2 consumer to a person subject to this section. If the plaintiff prevails,
3 the plaintiff shall be awarded reasonable attorney's fees and costs.
4 If a court determines by clear and convincing evidence that a breach
5 or violation was willful, the court, in its discretion, may award
6 punitive damages in addition to the amounts set forth above.

7 (h) This section shall become operative December 31, 2004.

8 SEC. 3. Section 13004.1 of the Vehicle Code is amended to
9 read:

10 13004.1. (a) No person shall manufacture or sell an
11 identification document of a size and form substantially similar to
12 the identification cards issued by the department.

13 (b) A violation of this section is a misdemeanor and shall be
14 punished by a fine of one thousand dollars (\$1,000), 24 hours of
15 community service, and, in the court's discretion, imprisonment
16 of not more than one year in a county jail. No part of the fine or
17 community service shall be suspended or waived.

18 SEC. 4. Section 14610.1 of the Vehicle Code is amended to
19 read:

20 14610.1. (a) No person shall manufacture or sell an
21 identification document of a size and form substantially similar to
22 the drivers' licenses issued by the department.

23 (b) A violation of this section is a misdemeanor and shall be
24 punished by a fine of one thousand dollars (\$1,000), 24 hours of
25 community service, and, in the court's discretion, imprisonment
26 of not more than one year in a county jail. No part of the fine or
27 community service shall be suspended or waived.

28 SEC. 5. No reimbursement is required by this act pursuant to
29 Section 6 of Article XIII B of the California Constitution because
30 the only costs that may be incurred by a local agency or school
31 district will be incurred because this act creates a new crime or
32 infraction, eliminates a crime or infraction, or changes the penalty
33 for a crime or infraction, within the meaning of Section 17556 of
34 the Government Code, or changes the definition of a crime within
35 the meaning of Section 6 of Article XIII B of the California
36 Constitution.